REMARKS

I. REJECTION AFTER AMENDMENT CONFORMING FINAL ACTION

Applicant recalls that the immediately previous amendment was in response to the final rejection. The Examiner stated in the final action that "THIS ACTION IS MADE FINAL," relying on M.P.E.P. 706.07(a). In the rejection after amendment to the final rejection, the Examiner withdrew and rejected allowable claims based upon 35 U.S.C. §103(a) in view of newly introduced reference.

M.P.E.P. 706.07(a)

"Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)."

Applicant respectfully disagrees with the examiner's introduction of a new ground of rejection that is not necessitated by the applicant's claim amendment seeking only allowable claims with no arguments.

M.P.E.P. 706.07(e)

"...Occasionally, the finality of a rejection may be withdrawn in order to apply a new ground of rejection. ... Although it is permissible to withdraw a final rejection for the purpose of entering a new ground of rejection, this practice is to be limited to situations where a new reference either fully meets at least one claim or meets it except for differences which are shown to be completely obvious."

Although not disclosed in the final rejection, the Examiner cited, over the 8/01/2006 telephone interview, M.P.E.P. 706.07(e) as the basis of the Rejection after Amendment to the Final Rejection. The Examiner rejected the allowable claims citing a new reference to support the rejection. That is, the Examiner rejected allowable claims presented after final rejection as

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unpatentable over the previously cited reference in view of a reference newly cited in the Non-Final Action after Final Action.

Applicant respectfully points out that in order to reject the amendment seeking only allowable claims after final rejection the new reference either fully meets at least one claim or should be other than obviousness rejection based upon 35 U.S.C. §103(a).

II. INTRODUCTION OF NEW REFERENCE

In this obviousness rejection under 35 U.S.C. §103(a) that emerged after amendment that had claimed allowable claims only following the final action, the Examiner newly introduced Park's USP 6,279,824 (hereinafter, "Park") to reject claim 1 which was amended to incorporate allowable claim 5. Basically, the Examiner rejected the allowably amended claim 1 as unpatentable over Chaney's USP 6,035,037 (hereinafter, "Chaney) in view of Park which was newly searched and cited by the Examiner in this rejection after final rejection.

The Examiner states that "Chaney does not disclose outputting a time lapse message when a number of paid digital satellite broadcasting signals is greater than the number of descrambling units." The Examiner further states "Park discloses determining whether a selected channel is scrambled, checking whether a smart card is inserted to determine whether the viewer is a charged channel subscriber, and outputting a message requesting the subscriber to insert the smart car if the smart car is not inserted." Then, the Examiner concludes "It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Chaney to include outputting a message requesting a subscriber to insert a smart card if a smart car is not inserted."

Applicant respectfully disagrees that Park discloses the applicant's "outputting a time lapse message when a number of paid digital satellite broadcasting signals is greater than the number of descrambling units." Applicant respectfully submits that there is absolutely nothing in Park to anticipate the applicant's significant comparison and condition of ".. a number of paid digital satellite broadcasting signals is greater than the number of descrambling units."

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Further, applicant respectfully indicates that the amended claim 1 has no disclosure about "smart card." Application submits that the Examiner's statement of "inserting a smart card if a smart card is not inserted" has absolutely no connection with the amended claim 1. Simply, there is no description as to "inserting a smart card if a smart card is not inserted" in the amended claim 1.

III. STATUTORY PERIOD TO RESPOND UNDER 37 C.F.R. §1.136(a)

As stated in the final action of this application, this amendment is being submitted within the six month period from the final action date of 2/17/2006 pursuant to 37 C.F.R. §1.136(a).

CONCLUSION

Applicant now believes after this amendment that claims 1-4, 6-7 and 9 be under condition of allowance, respectfully requests that a timely Notice of Allowance be issued for this application.

Respectively submitted,

IPLA P.A.

Date: August 11, 2005

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